

Chapter NR 305

TIME LIMITS FOR WATER REGULATION DECISIONS

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NR 305.01 Purpose. These rules are developed pursuant to ss. 227.11 (2) (a) and (b) and 227.116, Stats., to establish time limits for water regulation permits or approvals required as a condition of operating a business in this state.

History: Cr. Register, July, 1985, No. 355, eff. 8-1-85.

NR 305.02 Applicability. This chapter shall apply to permits under ss. 30.10, 30.12, 30.18, 30.19, 30.195, 30.20, 31.06, 31.08, 31.13, 31.18 (3), 31.185, 31.21 and 31.23, Stats., where an application is filed with the department on or after August 1, 1985.

History: Cr. Register, July, 1985, No. 355, eff. 8-1-85; correction made under s. 13.93 (2m) (b) 7., Stats., Register, October, 1995, No. 478; correction made under s. 13.93 (2m) (b) 7., Stats., Register January 2002 No. 553.

NR 305.03 Definitions. (1) "Application" means a form prescribed by the department to be filled out by a business or authorized agent of a business to undertake a specified activity, necessary for operating the business, which requires a permit enumerated in s. NR 305.02 from the department, along with any other information which can reasonably be required from an applicant and which is needed for the department to make a decision under applicable provisions of law, such as plans, property deeds, technical analyses or, where required pursuant to s. 23.11 (5), Stats., an adequate EIR.

(2) "Business day" means each day except Saturday, Sunday, January 1, after 12 noon on Good Friday, the last Monday in May, July 4, the first Monday in September, the 4th Thursday in November, December 24, December 25, and December 31. If January 1, July 4, December 24, December 25, or December 31 fall on either a Saturday or a Sunday, the day designated as a paid holiday in lieu of the specific date is not a business day.

(3) "Decision" means written permission, denial of permission, or dismissal of an application in accordance with procedural and substantive requirements of law.

(4) "Department" means the department of natural resources.

(5) "EA" means an environmental assessment as defined in s. NR 150.02 (11).

(6) "EIR" means environmental impact report as defined in s. NR 150.02 (9).

(7) "EIS" means environmental impact statement as defined in s. NR 150.02 (10).

(8) "Field investigation" means a physical inspection of the location of a proposed action requiring a permit or approval under chs. 30 and 31, Stats., and surrounding areas that may be directly or indirectly affected by the proposed action, carried out by an employee or agent of the department for the purpose of determining whether the proposed action meets applicable requirements of law.

(9) "Permit" is defined in s. 560.41 (2), Stats.

Note: Section 560.41, Stats., was repealed by 2011 Wis. Act 22.

(10) "Permit information center" means the unit established in the department of development by s. 560.03, Stats.

Note: Section 560.03, Stats., was repealed by 2011 Wis. Act 22.

History: Cr. Register, July, 1985, No. 355, eff. 8-1-85.

NR 305.05 Time limits. (1) Except as provided in s. NR 305.06, the time limits specified in sub. (2) shall be applied to

decisions on applications for the water regulatory permits or approvals enumerated in s. NR 305.02.

(2) For any permit enumerated in s. NR 305.02, a decision shall be mailed to the applicant within the time limits set forth in pars. (a) and (b) or the report required by s. 227.116 (4), Stats., shall be mailed to the permit information center within 5 business days after the applicable time limit has expired.

(a) Permits where a class I legal notice under ch. 985, Stats., is required by law or deemed appropriate by the department: 130 business days.

(b) Other permits: 65 business days.

History: Cr. Register, July, 1985, No. 355, eff. 8-1-85; correction in (2) (intro.) made under s. 13.93 (2m) (b) 7., Stats., Register, October, 1995, No. 478.

NR 305.06 Exceptions to time limits. (1) Where a contested case hearing is required because of objections to the granting of a permit or approval by the department, or where such a hearing is scheduled on the department's own motion, the department's decision shall be mailed to the applicant within 45 business days after completion of the hearing or the report required by s. 227.116 (4), Stats., shall be mailed to the permit information center within 5 business days after the last day of the time period.

(2) When an applicant's proposed project requires more than one department approval for which a time limit has been established pursuant to s. 227.116 (1r), Stats., decisions to which this chapter applies shall be made by the last day of the longest applicable time limit or the report required by s. 227.116 (4), Stats., shall be mailed to the permit information center within 5 business days after the last day of the time period.

(3) The time limits specified in s. NR 305.05 do not include the number of business days between:

(a) The date a decision is made by the department to prepare an EIS and the date a final determination is made that the department has complied with s. 1.11, Stats.;

(b) The date a request is made to an applicant for additional information necessary for the department to issue a decision under the applicable statute and the date that information is received by the department;

(c) The day a class I legal notice is mailed by the department and the date the department receives satisfactory proof of publication of that notice from the applicant; or

(d) November 1 of any calendar year and April 1 of the succeeding calendar year for applications received after October 1 where a field investigation is required before the department has adequate information to grant or deny the requested permit or approval.

(3m) When the department determines pursuant to ch. NR 150 that an EA is required for compliance with s. 1.11, Stats., the time limits specified in s. NR 305.05 shall be increased by 30 business days.

(4) If the department's action on a requested permit or approval is delayed or prevented by an order or decision of a court of law, the time limit specified in s. NR 305.05 shall be adjusted to conform to the court's decision or order.

(5) If the department's action on a requested permit or approval is delayed or prevented by the action or failure to act of

an agency or private party other than the department or the applicant, the time limit specified in s. NR 305.05 shall be adjusted accordingly.

History: Cr. Register, July, 1985, No. 355, eff. 8-1-85; corrections made under s. 13.93 (2m) (b) 7., Stats., Register, October, 1995, No. 478; correction made under s. 13.93 (2m) (b) 1., Stats., Register, October, 1998, No. 514; **correction in (2) made under s. 13.92 (4) (b) 7., Stats., Register May 2013 No. 689.**